

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

LANEAL SMILEY,

Plaintiff,

v.

Civil No. 05-10065-BC

Hon. David M. Lawson

Magistrate Judge Charles E. Binder

WARDEN DAVID SMITH, Ryan  
Correctional Facility,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT**

This matter is before the Court on the report and recommendation of United States Magistrate Judge Charles E. Binder to dismiss the complaint. The case was referred to the magistrate judge on an order for general case management pursuant to 28 U.S.C. § 636(b) and E.D. Mich. LR 72.1. The magistrate judge issued his report on April 11, 2005 recommending that the Court dismiss the complaint because the plaintiff failed to demonstrate that he exhausted available administrative remedies. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt # 7] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: April 26, 2005

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means or first class U.S. mail on April 26, 2005

s/Tracy A. Jacobs  
TRACY A. JACOBS